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From:

Sent: Wednesday, June 01, 2011 4:06:59 PM

To:

Cc:

Subject: Fee Waiver Denial Issue

Even though this fee waiver request is part of a request under section 6104 rather than FOIA, we can only look to FOIA practices and case law to guide our treatment of this request under section 6104.

While FOIA was recently amended to take into account the internet and emerging forms of electronic media, there is still no case law on how specifically to treat bloggers, but from what you have presented to us, we agree with your assessment that this organization is not a representative of the news media. In particular, we agree with your determination that since the website seems to be a database from which others, including journalists, can pull data in order to write articles, instead of writing articles themselves, the organization cannot be said to be using its "editorial skills to turn the [requested] raw material into a district work," as it is required under the FOIA to be classified as a representative of the news media. As new FOIA cases address the issue of whether and under what circumstances bloggers can be considered representatives of the news media, we may revisit the issue and will keep you apprised of our views on the matter.

As for the administrative appeal process, there is no appeal procedure under section 6104 for the denial of a fee waiver request in connection with a request for a tax exempt organization's information returns. However, if a requester disagrees with a fee waiver denial, that requester may file a FOIA request containing the same fee waiver request. If the FOIA request is denied, the requester will have the option of administratively appealing the denial under FOIA, as set forth in Treas. Reg. § 601.702(c)(10) and will be able to pursue judicial remedies as well.

Please let us know if we can offer additional assistance.

Thanks,